

46 Am. Jur. 2d Judges § 21

American Jurisprudence, Second Edition | February 2022 Update

Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

V. Powers and Duties

A. In General

§ 21. Powers and duties of judge, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  [23](#), [24](#), [27](#), [28](#), [31](#)

Forms

Forms relating to appointment, generally, see Am. Jur. Legal Forms 2d, Judges [\[Westlaw®\(r\) Search Query\]](#)

The powers of a judge are those that are conferred upon the judge by the constitution and by statute and those that are inherent in the judge's office.¹ The duties of the office of judge include all those that fairly lie within its scope, those that are essential to the accomplishment of the main purposes for which the office was created, and those that, although incidental and collateral, are germane to or serve to promote or benefit the accomplishment of the principal purposes; all such duties are official, and the incumbent is obliged to perform them.² Thus, district judges have no obligation to act as counsel or paralegal to pro se litigants, and, by the same token, have no obligation to assist attorneys representing a state.³ A judge's power to make an order exists solely by virtue of the judge's function as an adjudicator; it does not extend beyond the performance of judicial duties.⁴ Whether sitting separately or together, the judges of the superior court hold but one and the same court, and the jurisdiction they exercise in any cause is that of the court, and not the individual.⁵

Appointive judicial officers cannot rightfully exercise authority unless they receive their appointment as required by law,⁶ although, if they do not, their acts may be valid and binding under the rules governing the acts of de facto officers.⁷

In the absence of statute, a judge ordinarily has no duty to perform with reference to a case filed in the court until a party or someone interested in the case invokes the judgment in some legal manner.⁸

© 2022 Thomson Reuters. 33-34B © 2022 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 [District Attorney for Norfolk Dist. v. Quincy Div. Dist. Court Dept.](#), 444 Mass. 176, 827 N.E.2d 172 (2005).
As to the powers and duties of de facto judges, see § 226.
As to the powers and duties of special and substitute judges, see §§ 232, 242 to 248.
As to the authority of successor judges, see § 29.
As to the authority of a judge to reconsider an interlocutory ruling by another judge, see §§ 36 to 41.
- 2 [U.S. v. Ryder](#), 44 M.J. 9 (C.A.A.F. 1996); [In re Charges of Judicial Misconduct](#), 404 F.3d 688 (2d Cir. Jud. Council 2005).
As to the powers and duties of judges with respect to trials, see [Am. Jur. 2d, Trial §§ 1 et seq.](#)
- 3 [Day v. McDonough](#), 547 U.S. 198, 126 S. Ct. 1675, 164 L. Ed. 2d 376 (2006).
- 4 [In re Eastmoore](#), 504 So. 2d 756 (Fla. 1987).
- 5 [Magallan v. Superior Court](#), 192 Cal. App. 4th 1444, 121 Cal. Rptr. 3d 841 (6th Dist. 2011).
- 6 [Nollette v. Christianson](#), 115 Wash. 2d 594, 800 P.2d 359 (1990).
- 7 §§ 226 to 231.
- 8 [Utah Ass'n of Credit Men v. Bowman](#), 38 Utah 326, 113 P. 63 (1911).

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.